

REMARKS

Claims 1-9, 13-25 and 28-30 currently appear in this application. The Office Action of June 20, 2005, has been carefully studied. These claims define novel and unobvious subject matter under Sections 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicants respectfully request favorable reconsideration, entry of the present amendment, and formal allowance of the claims.

Claim Objections

In claim 1 and claims 24 and 25, the examiner states that the phrase "phenyl" is unclear because it is redundant when Cy is equal to formula 2 and R₁-R₅ are hydrogen.

It should be noted that claim 1 recites on page 1, lines 7-9, that R₁, R₂, R₃, R₄ and R₅ are hydrogen, halogen, hydroxy, amino, trifluoromethyl, or nitrile and at least one of R₁, R₂, R₃, R₄ and R₅ is halogen, trifluoromethyl or nitrile. Therefore, it is impossible for all of R₁, R₂, R₃, R₄ and R₅ to be hydrogen, and it is impossible that the group be a phenyl group. Thus, the phrase "phenyl" is not redundant.

In claim 30, lines 9-10, the Examiner states that the phrase "optionally substituted heterocyclic ring" is unclear and is redundant.

Claim 30 has now been amended to clarify that substituents such as carboxyl and subsequent groups are not for R_{14} and R_{15} , but are species of R'' . This amendment is supported by claim 30 as filed as well as the specification. Additionally, the recitation that R_{14} and R_{15} together form a optionally substituted 3-7 cyclic amine was deleted by the amendment filed April 26, 2005.

Claims 1, 2, 13-25 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Kotake et al.

This rejection is respectfully traversed. The statute, 35 U.S.C. 102(b), states that a person shall be entitled to a patent unless the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in the country more than one year prior to the date of the application for patent in the United States. The PCT application that became Kotake, U.S. 6,255,285, was published February 25, 1999. The filing date of the present application is January 28, 2000. This is less than one year from the publication of Kotake et al. Moreover, Kotake et al. was published February 28, 1999, which is after the priority date of the present application, January 28, 1999. Therefore, it is respectfully submitted that Kotake et al. is not a reference under the statute.

Claims 1, 2, 13-21, 23-25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotake.

This rejection is respectfully traversed. As Kotake was published after the priority filing date of the present application, it is respectfully submitted that Kotake is not a reference.

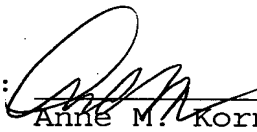
Claims 3-10, 22 and 30 are merely objected to because they are based on a rejected base claim.

As the only reference cited against any of the claims is Kotake, which has been demonstrated not to be a reference, it is respectfully submitted that the base claims upon which claims 3-10, 22 and 30 depend are allowable.

In view of the above, it is respectfully submitted that the claims are now in condition for allowance, and favorable action thereon is earnestly solicited.

Respectfully submitted,

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